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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,579	10/18/2001	Yoshitaka Takeuchi	35.C15884	5217
5514	7590	04/27/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			WHIPKEY, JASON T	
			ART UNIT	PAPER NUMBER
			2622	
DATE MAILED: 04/27/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/978,579	<b>Applicant(s)</b> TAKEUCHI, YOSHITAKA	
	<b>Examiner</b> Jason T. Whipkey	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7 is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 6, 2006, has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-6 have been considered but are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 112***

3. Claims 1-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Claim 1 recites "storing data extracted from the first image data ... in accordance with a predetermined file format," and "said second image data is ... stored said memory [sic] in

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accordance with the predetermined file format.” However, the specification is silent with regard to storing extracted first image data and second image data in the same file format.

Claims 2-6 are rejected because they are dependent on claim 1.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gu (U.S. Patent No. 5,874,988).

Regarding **claim 1**, Gu discloses an image pickup apparatus (see Figure 1) comprising:

a memory (image and data storage device 150) for storing first image data (a reference image; see column 17, lines 7-11) obtained from an image pickup element (image source 125), and for storing data extracted from the first image data (associated statistical video image data; see column 17, lines 7-11), in an area of the memory different from the area of the first image data (see Figure 12 and column 20, lines 47-52), in accordance with a predetermined file format (shown in Figure 12); and

a control unit (170) for correcting color of second image data (a “target image”; see column 20, line 54) obtained from an object different from that of the first image data (see column 12, lines 43-45) ... on the basis of the data extracted from the first image data (see column 18, lines 24-28), wherein said second image data is obtained from the image pickup element (see column 20, line 54).

Gu is silent with regard to storing the second image data in accordance with the predetermined file format.

Official Notice is taken that image data within a device is frequently stored using the same format. An advantage of doing so is that a single codec can be used, thus reducing system complexity. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Gu’s system store the second image data in the same file format as the first image data.

Regarding **claim 2**, Gu discloses:

said memory stores a plurality of first image data (see column 23, lines 56-61) to extract the data for use as white balance data (see column 12, lines 40-43, and column 20, lines 48-53).

Regarding **claim 3**, Gu discloses that the image pickup apparatus further comprises:

a display unit (workstation monitor 102) adapted to display the first (see column 19, lines 50-60) and second image data (see column 20, lines 55-59);

a switching member for switching the first image data to be displayed on said display unit (inherent; since both the reference and target images are displayed at different times, some sort of controller must be present); and

a determination member for determining the first image data to be displayed on said display unit as image data for adjusting a white balance of the second image data (see column 12, lines 40-43, and column 20, lines 48-53).

Regarding **claim 4**, Gu discloses:

the first image data is an average value of each color component obtained from the image pickup element (see column 12, lines 45-57).

Regarding **claim 5**, Gu discloses that a representative spot can be selected from the reference image (see column 18, lines 20-59). However, Gu is silent with regard to the spot being located at the central portion of an image.

Official Notice is taken that data for a white balance operation is frequently taken from the center of an image. An advantage of doing so is that less processing capability is necessary. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Gu's device automatically use the center of an image as a white balance reference.

Regarding **claim 6**, Gu discloses:

the first image data is different from a white balance adjustment value for adjusting the second image data (image data and statistical data about that image data are stored; while they can be used in conjunction with the target image to produce adjustment values, the stored data are not adjustment values *per se*; see column 17, lines 7-11, and column 18, lines 24-28).

***Allowable Subject Matter***

6. Claim 7 is allowed.

No prior art could be located that teaches or fairly suggests an image pickup apparatus that stores reference data and specific data captured using two different light sources, wherein a control device reads out an image file containing white balance data and corrects the *white balance data* using the reference data and the specific data.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Enomoto (U.S. Patent No. 7,024,035) discloses first image data 500 (see Figure 12) used to adjust second image data 501. Ishii (U.S. Patent no. 7,009,640) discloses correcting color using stored profiles. Saikawa (U.S. Patent No. 7,020,331) discloses correcting color using a stored calibration image.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:30 P.M. eastern daylight time.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz, can be reached at (571) 272-7593. The fax phone number for the organization where this application is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTW

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April 19, 2006

  
TUAN HO  
PRIMARY EXAMINER